

Summary Minutes of the  
Delta Protection Commission  
September 28, 2006

**1. Call to Order/Flag Salute**

Vice Chairman Ferguson called the meeting to order at 6:40 p.m.

**2. Roll Call**

Present: Vice Chairman Ferguson, Commissioners Johnson, Kelly, Morey, Perez, Sanders, Simonsen, van Loben Sels and Wilson. Roberta Goulart for Mary Piepho.

Absent: Chairman McGowan, Beckman, Cabaldon, Calone, Nottoli, Ornellas, Piepho, Reagan, Scriven, and Shaffer.

**3. Public Comment**

No one addressed the Commission.

**Consent Agenda (Items 4-12)**

Vice Chairman Ferguson announced that items 4 and 10 would be moved to the regular agenda. No action was taken on the consent agenda.

**Regular Agenda**

**4. Approve Minutes of Meeting of July 27, 2006**

No action was taken on approval of the minutes.

**10. Receive Update on State Delta Vision/Strategic Plan Process and Acknowledge Inclusion of Commission Executive Director on Delta Vision Planning Core Team.**

Linda Fiack announced that Executive Order (S-17-06) was released by the Governor to Develop a Strategic Vision for the Delta. She reported that she has represented the Commission in the Delta Visioning process as a member of the core planning team. The DPC's role would be assuring that local government and stakeholders are at the table for discussion.

**13. Relative to Development of a Delta Mercury TMDL by the California Regional Water Quality Control Board, Central Valley Region**

Linda Fiack reported that the Mercury TMDL process has begun in the Delta and the Commission sent three letters to the Regional Board letting them know that the Commission established collaborative was moving forward. She also reported that two more letters were sent informing the Regional Board of the efforts underway in the Delta, including the Delta Vision, and the importance of interacting with those processes. She said two consultants have been hired—TetraTech and CSUS Office of Water Programs.

Patrick Morris, Central Valley Water Quality Control Board gave an overview on the Delta Methylmercury TMDL and Basin Plan Amendment. He reported that the Board identified the Delta as being impaired by mercury because Delta fish have elevated levels of methylmercury, which in turn posed a risk for human and wildlife consumers. He said that the Board developed a

two component water quality attainment strategy to resolve the mercury impairment: total maximum daily load (TMDL) for the Delta and the amendment of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (the Basin Plan) to implement the TMDL program. The TMDL development process involves the technical analysis of methyl and total mercury sources; identification of safe fish tissue methylmercury levels protective of humans and wildlife that consume Delta fish and a correlated implementation goal for methylmercury in ambient water; and calculation of the amount of ambient methylmercury reduction needed to attain the proposed implementation goal.

The Basin Plan amendment draft staff report recommends 0.24 mg/kg (wet weight) in muscle tissue of large (150-500 mm total length or legal catch length if designated by DFG) trophic level (TL) 4 fish such as bass and catfish; 0.08 mg/kg (wet weight) in muscle tissue of large TL3 fish such as carp and salmon; and 0.03 mg/kg (wet weight) in whole TL2/3 fish less than 50 mm in length, such as inland silverside, mosquitofish and threadfin shad.

The proposed implementation program focuses on sources of both methylmercury and inorganic mercury. The proposed implementation program focuses on methylmercury because the TMDL analyses and studies conducted elsewhere in California and the United States indicate that reducing methylmercury levels in ambient water should result in the reduction of fish methylmercury levels. The program also addresses inorganic mercury because: methylmercury production has been found to be a function of the inorganic mercury content of sediment; the implementation program for the Delta must maintain compliance with the USEPA's CTR criterion for total recoverable mercury in freshwater sources; and the mercury control program for San Francisco Bay has assigned a total mercury load reduction of 110 kg/yr to the Central Valley. Methylmercury sources include tributary inputs from upstream watersheds and within-Delta sources such as sediment flux from wetlands and open water habitats, municipal and industrial wastewater, agricultural drainage, and urban runoff. Sources of inorganic mercury occur primarily in the Delta's tributary watersheds and include gold and mercury mine sites, legacy mercury in the stream channel sediments, geothermal springs, atmospheric deposition, urban runoff, and municipal and industrial wastewater.

For the first phase of the control program, Regional Board staff is recommending that parties responsible for methylmercury sources in the Delta and within 30 miles upstream of the legal Delta boundary (see figure) be required to conduct individual or collaborative methylmercury source characterization and control studies. In addition, staff recommends inorganic mercury load reductions for the tributary watersheds that export large volumes of highly contaminated sediment (e.g., Cache Creek Settling Basin, Putah Creek, and Feather and American Rivers) and caps for all other inorganic mercury sources (e.g., atmospheric deposition, urban runoff, dredging activities, and municipal and industrial wastewater) in the Delta and downstream of major dams in the tributary watersheds. Additional actions may be identified during the second phase of the control program and implemented through future Basin Plan amendments. The Central Valley Water Board will evaluate several implementation alternatives to ultimately determine the scope of the Delta mercury control program.

Commissioner van Loben Sels asked if it would be best to approach the situation from a "best management" approach rather than an arbitrary one. Mr. Morris responded that it was already established as to what to do, as it was a two part process and the focus was on how to demethylize.

Commission Wilson asked if wetland islands were dumping more methylmercury than farm islands. Mr. Morris responded that he did not know because the Board had data from the last 2-5 years, and not historical data.

**14. Receive Informational Update on Action Taken by the Yolo County Board of Supervisors on the Clarksburg Old Sugar Mill Project.**

Linda Fiack reported that the Commission has submitted comments on the environmental documents for the Sugar Mill throughout the CEQA review process, which stated that the Commission's position is that the project is in the Primary Zone and subject to consistency with the Management Plan. She further reported that the project was heard by the Yolo County BOS on September 1, 2006, with the BOS intending to take final action on October 17, 2006. The BOS asked County staff to address and provide clarification on: development of a scope of work for satisfying the geotechnical study requirements; requirement for future home owners to carry flood insurance; timely construction of a dock on the waterfront; and concerns expressed by the Rio Vista School District. Ms. Fiack said that it remains the position of Yolo County staff that the location of the project is not located in the Primary Zone; however, if it is determined that the project is in the Primary Zone, County staff has found (from their perspective) the project is consistent with the Management Plan.

Dan Siegel said that under the Commission's regulations, any appeal must be filed within 10 days of the final action to be appealed; moreover, the Commission must schedule a hearing on the matter within 45 days of the filing of an appeal to (a) determine if it has jurisdiction over the matter, and (b) if the matter is appealable. Mr. Siegel said that if it is found that the Commission has authority over the matter, then it will have to set a hearing at its next regularly scheduled meeting.

Peggy Bohl, Clarksburg, provided the Commission with articles concerning the Sugarmill. She also said that she does not know if the Concerned Citizens of Clarksburg would file an appeal on the project.

**15. Relative to Development of a Long Term Management Strategy for Dredged Material in the Delta (LTMS)**

Linda Fiack reported that the process for establishing a Delta LTMS for dredging was initiated by the Corps. The process allows for the establishment of parameters under which dredging can take place and allows for a streamlined permitting process. There has been very little funding for the process, but the Commission sent a letter to Congress urging support. The process is underway and the Framework and Charter have been developed. The Charter calls for a structure of an executive committee, management committee and a technical group. The Commission Chair (or his designee) will serve on the executive committee. Ms. Fiack also stated that the Commission sent comments to the Corps, and those comments, including the inclusion of the Executive Director on the management committee, will be taken into consideration in the revised Charter. A kickoff meeting is scheduled for October 24, 2006 with a formal signing of the Charter by the executive members.

Roberta Goulart stated that there is roughly \$500,000 in the Senate budget for LTMS and said she would like to see the Commission continue to send letters to relative legislators in support of the federal allocation.

**16. Relative to the Delta Emergency Response Summit Facilitated by the Commission on June 26, 2006.**

Linda Fiack reported that two comments came forth from the Commission's discussion of Emergency Response Summit at the last DPC meeting: (1) what is the role of the Commission and if that role was consistent with the Management Plan; and (2) how extensive would that role be. She said the Commission's role would be to connect people to determine what opportunities and challenges need to be approached Delta-wide. The role would be to carry out the process by facilitating the initial meeting with county electeds in follow-up to the Summit and also between emergency response staff with respect to the technical aspect and to gear up for potential funding aspects. Ms. Fiack thanked the engineering firms for providing funding for the Summit.

Dave Ceppos, Center for Collaborative Policy (CCP), said that he served as the moderator of the Summit. He said that as a result of the Summit he had conversations with Commissioners Reagan, Goulart and Ferguson to discuss compelling need, and from those discussions, came the point that there is a need for regional continuity in emergency preparedness that goes above and beyond the need for flood fighting. Mr. Ceppos said that should this go forward, CCP is prepared to assist the Commission and others in preparing funding requests.

Marci Coglianese, Rio Vista, stated that a great deal of work that she does and the concern she has is the about basic infrastructure of the Delta levee system. She said she is interested in what the agencies were doing to plan for failure (of varying degrees) up to and including catastrophic failure. She said she was advocating for advanced planning, improvements, and maintenance that would forestall any of those events. She also said she has been assured that the Department of Water Resources has an excellent preparedness program for flood fighting. Ms. Coglianese said that is clear to her that the Delta has the same jurisdictional confusion as New Orleans had with Hurricane Katrina, and a continuing weakness seems to be in the areas of land uses, property values and people. She thanked the Commission for coordinating the Summit and asked that it continue to move forward on the issue.

Robert Goulart stated that she was concerned that Commission was not doing enough on emergency preparedness and asked if there were steps the Commission could take now so that it could take actions by the November meeting.

**17. Receive Informational Update from Executive Director on Discussions with Delta Counties**

Linda Fiack reported that she has been increasing outreach by making presentations before the Board of Supervisors of the five Delta Counties and having discussions with County planning staff. The presentations cover areas such as the Commission's Strategic Plan, Delta Unity, Management Plan integration, project review, etc. She also said that she has

been working with county staff to discuss incorporation of the Management Plan policies into a Delta element of the county general plans, establishment of a Delta projects checklist for projects in the Primary Zone, and inclusion of a Delta fund in county budgets. The first presentation will take place before the Solano County Board of Supervisors, with the Counties of Yolo and San Joaquin to follow.

Commissioner Simonsen stated that he liked the idea of the checklist and asked if such a checklist was discussed for the Secondary Zone. Ms. Fiack responded that the checklist would apply if it was deemed that a project in the Secondary Zone would impact the Primary Zone.

**18. Receive Executive Director Summary of 2006-2007 Goals of Priority, Consistent with the Adopted 2006-2011 Strategic Plan**

Ms. Fiack reported that the Commission will receive formal updates in November, March and May, on the status of the workplan tasks in the implementation of the Strategic Plan. She said that in March 2007, the Commission will discuss any new projects for the upcoming year.

**19. Commissioner Comments/Announcements**

Commissioner Kelly reported that DWR was reviewing and responding to the comments received on the South Delta Improvement Project DEIR/EIS. DWR and the U.S. Bureau of Reclamation have proposed installing permanent operable gates to improve water levels/quality and circulation, and to help salmon from traveling into the south Delta. She also reported that the operational component of the project, which includes increasing the allowable export limit into the Clifton Court forebay for the State Water Project up to 8,500 cfs., has been postponed. Ms. Kelly said there are some concerns on the federal side, but it is hoped that the final document will be released by late October 2006.

Commissioner Kelly reported that DWR is working on an administrative draft EIR for the North Delta Program, which should be released to the public in the near future. Ms. Fiack said that the administrative draft was released, Commission staff responded and now the public draft is underway.

Commissioner van Loben Sels commented that the release date should occur around the first of the year because DWR is currently working on cost benefit ratios to attach wildlife benefits. He asked Commissioner Kelly if water quality would increase for the central and south Delta if DWR goes ahead with the proposal without increasing the exports. Commissioner Kelly responded that yes it would increase between 8 percent to 20 percent.

Commissioner van Loben Sels announced that he attended a FEMA mapping workshop. The workshop was hosted by DWR, the Corps, and FEMA, and concentrated on flood plain remapping. He said that FEMA would update floodplain maps. He also said that as a result of the updating, the flood rate for insurance premiums will increase until the mapping is complete. The final maps should be completed within three years; however, the

Sacramento-San Joaquin Delta mapping would likely take five years. Additionally, Sacramento-San Joaquin Delta levees will have to go through a re-certification process.

Commissioner Simonsen asked if FEMA was looking at 500 year floodplains. Commissioner van Loben Sels responded that as far as he knew, it would be 200 year floodplains; however, the criteria for the recertification process will not be the same as that of 1980.

#### Adjournment

Vice Chairman Ferguson adjourned the meeting at 8:10 p.m. in the memory of John Nejedly (father of Commissioner Mary Piepho).